

...REMARKS...

The Official Action of September 12, 2002 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowable.

By the present amendment, independent claim 1 has been changed to recite that the fibrous assembly having an inelastic stretchability is joined to the elastic sheet at binding spots "prior to stretching the resulting joined structure."

Support for this change to the claims can be found in Fig. 2 wherein it is shown that the first and second webs are intermittently heat sealed together prior to stretching the composite web.

Also by the present amendment, claim 6 has been rewritten in independent form so as not to depend upon non-elected claim 4.

Entry of the changes to the claims is respectfully requested.

Claims 1-6 are pending in this application.

Claims 4 and 5 were withdrawn by the Examiner as being directed to a non-elected invention.

Claims 1-3 and 6 were rejected under 35 U.S.C. §112, second paragraph. Under this rejection the Examiner has stated that it was not clear what the term "sites" encompasses since the specification only refers to "spots."

In response to this basis for rejecting the claims, claim 1 has been amended to recite "spots."

Also under the rejection based upon 35 U.S.C. §112, second paragraph, the Examiner noted that claim 6 depended upon non-elected claim 1. Claim 6 has accordingly been rewritten so as to be in independent form so that it does not depend from non-elected claim 4.

It is believed that the changes to the claims address and overcome the outstanding rejection of the claims under 35 U.S.C. §112, second paragraph.

Claims 1-3 were rejected under 35 U.S.C. §112, first paragraph. Under this rejection the Examiner has stated that it was not clear what the term "sites" encompasses since the specification only refers to "spots."

As noted above, claim 1 has been amended herein to recite "spots."

Accordingly, the rejection of claims 1-3 under 35 U.S.C. §112, first paragraph is believed to have been overcome.

Claims 1-3 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,116,662 to Morman.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the Morman and therefore, the outstanding prior art rejection based upon Morman should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Morman as describing a multi-direction stretch composite elastic material including at least one elastic sheet which according to the Examiner "means that the sheet is elongated about 60%, i.e. stretched." The Examiner notes that Morman "describes 'nonelastic' as not falling in the definition of elastic."

The Examiner further notes that Morman “describes a composite material which refers to at least one sheet which is stretched and one necked (non-elastic) material, which are joined together in at least three locations corresponding to the instantly claimed binding spots.”

As the Examiner is not doubt aware, an applicant for patent can be his or her own lexicographer so long as the specification supports his or her definition.

In the present situation, Morman has set forth a definition “[a]s used herein” of “nonelastic” as referring to “any material that does not fall within the definition of ‘elastic,’ above.”

The “term ‘elastic’ is used herein to mean any material which, upon application of a biasing force, is stretchable, that is, elongatable, at least at least about 60 percent (i.e., to a stretched, biased length which is at least about 160 percent of its relaxed unbiased length), and which, will recover at least 55 percent of its elongation upon release of the stretching, elongating force.”

A standard dictionary definition of “elastic” according to the website www.webster.com is “capable of recovering size and shape after deformation.”

There is nothing in the standard definition of “elastic” that qualifies the amount or percentage of size that is recovered.

It is according submitted that Morman’s definitions of “elastic” and “nonelastic” are limited to the invention disclosure of Morman and cannot be applied to or used to interpret applicants’ claimed invention.

Therefore, it is submitted that Morman cannot be relied upon as reading on applicants’ use of elastic and inelastic sheet elements.

As stated in Morman at column 4, lines 62-66:

The necked material is joined to an elongated elastic sheet at least at three locations arranged in a nonlinear configuration so that when the elongated elastic sheet is relaxed, the necked material is gathered between at least two of those locations.

In contrast to Morman, in applicants' invention, the fibrous assembly having an inelastic stretchability is joined to the elastic sheet at binding spots "prior to stretching the resulting joined structure."

This difference in processing results in a different structure over the composite sheet of Morman in which the necked material is "gathered" between the locations at which the necked material is joined to the elongated elastic sheet.

Accordingly, it is submitted that Morman does not render obvious or otherwise suggest applicants' claimed invention.

Based upon the above distinctions between Morman and the present invention, and the overall teachings of Morman, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon Morman as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon Morman would be improper inasmuch as Morman does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of Morman and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

Claims 1-3 and 6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-4 of copending patent application Serial No. 09/941,566.

Claims 1-3 and 6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-4 of copending patent application Serial No. 09/812,299.

In response to the provisional obviousness-type double patenting rejections, applicants are hereby submitting a Terminal Disclaimer in which the terminal portion of any patent issuing on the present application which would extend beyond the term of any patent issuing from the copending patent applications is disclaimed.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

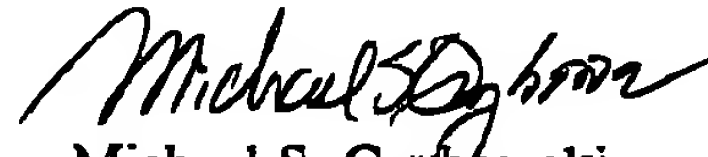
The prior art cited on page 9 of the Official Action but not relied upon by the Examiner has been noted. This prior art is not deemed to be particularly pertinent to applicants' claimed invention.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension

of time fees, to Deposit Account No. 02-0385 and please credit any excess fees to such deposit account.

Respectfully submitted,



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Marked-up Copy of Changes to the Claims
as Amended on December 12, 2002

1. (Twice Amended) A stretchable composite sheet comprising:

an elastic sheet having a stretchability in at least one of two directions that are orthogonal to each other; and

a fibrous assembly in the form of a sheet having a stretchability in one of said at least two directions and joined to at least one surface of said elastic sheet, said fibrous assembly having an inelastic stretchability and being joined to said elastic sheet at binding [sites] spots prior to stretching the resulting joined structure, said binding spots being [that are] arranged intermittently along said two directions, said fibrous assembly comprising fibers that are curved between adjacent pairs of said binding [sites] spots along said one of said at least two directions, said component fibers comprising ethylene/propylene copolymer containing ethylene at 0.5 ~ 10 % by weight, ethylene/propylene/butene containing ethylene at 0.5 ~ 10 % by weight and butene at 0.5 ~ 15 % by weight, or a mixture thereof at 100 ~ 10 % by weight.

6. (Twice Amended) A stretchable composite sheet obtained by: [by the process according to Claim 4.]

a) providing a first web made of thermoplastic synthetic fiber and being inelastically stretchable in one direction, said first web being formed from fibers that comprise ethylene/propylene copolymer containing ethylene at 0.5 - 10 % by weight, ethylene/propylene/butene containing ethylene at 0.5 - 10 % by weight and butene at 0.5 - 15

% by weight, or a mixtures thereof at 100 - 10 % by weight and having a breaking extension of at least 150 %:

b) providing a second web made of thermoplastic synthetic resin and being elastically stretchable at least in said one direction, said second web being elastically stretchable by at least 80 % in said one direction :

c) continuously feeding said first web in said one direction;

d) continuously feeding said second web in said one direction and placing said second web upon said first web;

e) joining said first and second webs having been placed upon each other in step d) to each other intermittently in said one direction and in the direction orthogonal to said one direction, at least in said one direction;

f) stretching said first and second webs having been joined to each other in step e) in said one direction and said direction orthogonal to said one direction, at least in said one direction within an elasticity limit of said second web and within a breaking extension of said first web; and

g) allowing said first and second webs having been stretched in step f) contract to obtain said composite sheet.